

A Regular Meeting of the Zoning Board of Appeals of the Town of Lancaster, Erie County, New York, was held at the Lancaster Town Hall, 21 Central Avenue, Lancaster, New York, on the 13th day of November 2014, at 7:00 P.M., and there were

PRESENT: JILL MONACELLI, MEMBER

 JAMES PERRY, MEMBER

 LAWRENCE PIGNATARO, MEMBER

 ARLIE SCHWAN, MEMBER

 ROBERT THILL, MEMBER

 RICHARD QUINN, CHAIRMAN

ABSENT: JOHN BRUSO, MEMBER

ALSO PRESENT: JOHANNA M. COLEMAN, TOWN CLERK

 KEVIN LOFTUS, DEPUTY TOWN ATTORNEY

 JEFFREY H. SIMME, CODE ENFORCEMENT OFFICER

The Affidavits of Publication and Posting of this Public Hearing are on file and a copy of the Legal Notice has been posted.

PETITION OF: MORSE & DONNA BURFIELD

THE 1st CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Morse & Donna Burfield, 8 Avenue C, Lancaster, New York 14086 for one [1] variance for the purpose of constructing an addition to an existing garage on premises owned by the petitioners at 8 Avenue C, Lancaster New York:

A variance from the requirements of Chapter 50, Zoning, Section 17A (3) of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Avenue C with an exterior side yard [considered a front yard equivalent] fronting on Remwood Avenue. The existing garage is set back twenty-two [22] feet from the Remwood Avenue right of way. The location of the proposed addition will result in a ten [10] foot south exterior side yard setback on Remwood Avenue.

Chapter 50, Zoning, Section 17A (3) of the Code of the Town of Lancaster requires a thirty five [35] foot exterior side yard setback on Remwood Avenue. The petitioners, therefore, request a twenty-five [25] foot south exterior side yard setback variance.

The Clerk presented and entered into evidence the following items:

- Duly executed petition of the applicants with exhibits and schedules attached thereto.
- Copy of a letter notifying the petitioners of the time and place of this public hearing.
- Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.
- Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.
- Copy of a letter notifying The Village of Lancaster of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Morse Burfield, Petitioner	Proponent
Tim Sullivan	Proponent

IN THE MATTER OF THE PETITION OF MORSE & DONNA BURFIELD

THE FOLLOWING RESOLUTION WAS OFFERED
BY MS. MONACELLI, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Morse and Donna Burfield and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicants are the present owners of the premises in question.

WHEREAS, the property for which the applicants are petitioning is within a Residential District 2, (R-2) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicants cannot be achieved by some other method, feasible for the applicants to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicants if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR BRUSO	WAS ABSENT
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 13, 2014

PETITION OF: NATALE DEVELOPMENT, LLC

THE 2nd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Natale Development, LLC, represented by Cory Auerbach as Agent/Attorney, 9159 Main Street, Suite 3, Clarence NY 14031 for two [2] variances for the purpose of constructing a Multifamily Residence at 375 & 391 Harris Hill Road on premises owned by Sharon Taylor, Executor of Estate of Hazel Gripple, 606 Columbia Avenue, Lancaster, NY 14086, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 12.C.(1)(c) of the Code of the Town of Lancaster. The height of the proposed structure is thirty-nine point three feet [39. 3'].

Chapter 50, Zoning, Section 12.C.(1)(c) of the Code of the Town of Lancaster limits the height of buildings within MFR-3 zoning to thirty-five feet [35']. The petitioner, therefore, requests a four point three foot [4. 3'] variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 12C.(1)(h) of the Code of the Town of Lancaster. The longest length of the proposed structure is four hundred twenty-six feet [426'].

Chapter 50, Zoning, Section 12.C.(1)(h) of the Code of the Town of Lancaster limits the length of buildings within MFR-3 zoning to one hundred seventy-six feet [176']. The petitioner, therefore, requests a two hundred fifty foot [250'] variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Cory Auerbach, Esq. Representing Petitioner	Proponent
Bob Corrao, Natale Builders	Proponent

IN THE MATTER OF THE PETITION OF NATALE DEVELOPMENT, LLC

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR.THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PIGNATARO
TO WIT:

BE IT RESOLVED,

That in the Matter of the petition for area variances of Natale Development, LLC dated September 24, 2014, for premises located at 375 & 391 Harris Hill Road, Lancaster New York, the Zoning Board of Appeals of the Town of Lancaster adopts the following findings with any member(s) **dissent** to a particular finding noted by the clerk to the board:

Findings

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That this matter is properly before the Zoning Board of Appeals from a “Notice of Non Compliance” dated September 23, 2014, issued by the building and zoning department of the Town of Lancaster due to non-compliance of the building permit application and site plans to certain provisions of Chapter 50 Zoning of the Code of the Town of Lancaster.

That the petitioner is the owner of the premises for which the variance relief is sought.

That affidavits of publication and posting presented by the Clerk indicated that notice of the public hearings on this matter was duly published and posted according to law.

That property owners of record located within 100 feet of the premises on which these variances are sought were notified by first class mail of the nature of the variances sought by the petitioner and of the time and place of the scheduled hearing before the Zoning Board of Appeals on these variances.

That pursuant to section 239m of the General Municipal Law the Erie County Department of Planning has been notified of the time and place of the scheduled public hearing on these variances.

That the Erie County Department of Planning acknowledged receipt of the notice of this hearing and commented as follows: “No Recommendation”

That the premises upon which the variances are sought is located within the Multifamily Residential District Three (MFR-3) as set forth in Chapter 50 Zoning of the Code of the Town of Lancaster as amended by resolution of the Town Board on August 18, 2014. The use sought, construction of a two and three story building with 150 attached residential senior apartments, is a permitted use in that district.

That the Town Board of the Town of Lancaster on August 4, 2014, issued a “Negative Declaration-Determination of Non Significance” for the proposed development project upon which this variance is sought pursuant to Part 617 of the implementing regulations pertaining to Article 8 (State Environmental Quality Review Act) of the Environmental Conservation Law.

Specific Findings

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That the granting of the requested area variances for the height of the senior housing facility and with proposed 426 foot wall length of the proposed building with residential sloped roofs instead of flat roofs will provide substantial benefits to applicant without any resulting detriments to the health, safety and welfare of the community.

That the proposed two and three story building with a 39.3 foot residential style sloped roof and a height in excess of 35 feet will have a much higher quality appearance than a two story building with a flat roof at 35 feet not requiring a variance. The construction of a building with residential style sloped roof as opposed to a flat roof is beneficial to the applicant because it will be far easier for the applicant to lease residential units in buildings with an attractive appearance than if the building consisted of flat roof at a height of 35 feet or under per strict application of allowable building height for property zoned MFR-3

That granting of the requested area variance by the Zoning Board of Appeals will not create an undesirable change in the character of the neighborhood or a detriment to nearby properties. The proposed building will have a much better appearance than an expressly permitted building with flat roofs. The sole reason for the requested area variance for the height of the upscale multifamily buildings is so that residential style sloped roofs can be used instead of constructing multifamily buildings with flat roof and a height of 35 feet.

That the premises north of and contiguous to the subject premises contains eight (8) one story office structures each with wall length in excess of three hundred feet [300'].

That the benefit sought by the applicant cannot be achieved by some other method feasible for the applicant to pursue other than the area variances sought. It would not be possible for the applicant to obtain the benefits it is seeking without the requested relief being granted by the Zoning Board of Appeals. The use of three story multifamily buildings with flat roofs would be inconsistent with the applicant's objective of constructing a very high quality multifamily community for affluent tenants. *Dissent(s): Ms. Monacelli.*

That the granting of the requested area variances will not have any adverse effects or impacts on physical or environmental conditions in the neighborhood. The Town conducted a comprehensive coordinated environmental review of the proposed project that resulted in the issuance of a negative declaration by the Town Board on August 4, 2014. The Town Board's issuance of a negative declaration was based on its determination that the project will not result in any potentially significant adverse environmental impacts.

That granting of the requested area variances by the Zoning Board of Appeals is justified because the benefits that will be received by the applicant if the requested area variances are granted clearly outweigh any resulting detriments per the statutorily mandated balancing test and five criteria contained in Town Law §267-b(3)(b). The board notes in this finding of applicant vs neighborhood and community that a substantial benefit will inure to the Lancaster Central School District by virtue of this development. Tax assessments on this facility will produce substantial increased school tax revenue for the school district without any additional students entering the system. *Dissent(s): Mr. Quinn, Ms. Monacelli.*

That the area variances, if granted, are the minimum variances necessary to afford the relief sought.

The question of adoption of the forgoing resolution was put to a voice vote which resulted as follows:

MR. BRUSO	WAS ABSENT
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution proposing these findings was thereupon ADOPTED.

November 13, 2014

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY
MR. SCHWANN TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the the petition of Natale Development, LLC dated September 24, 2014, for two (2) variances for the purpose of constructing 150 senior attached apartments on premises located at 375 & 391 Harris Hill Road, Lancaster New York, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November, 2014, and heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed their findings on this matter pursuant to a resolution dated November 13, 2014 and carefully weighed the benefits that will be received by the applicant if the requested area variances are granted against any resulting detriments to the character, health, safety and welfare of the neighborhood per the statutorily mandated balancing test and five criteria contained in Town Law section 267-b(3)(6).

**NOW, THEREFORE, BE IT
RESOLVED**, that the Zoning Board of Appeals of the Town of Lancaster grants to Natale Development, LLC two (2) variances, to wit;

Variance grant # 1: [structure height]
A variance from the requirements of Chapter 30, Zoning, Section 12.C(1)(c) of the Code of the Town of Lancaster for the purpose of construction of 150 senior attached apartments on premises located at 375 & 391 Harris Hill Road, Lancaster, New York with a structure height of thirty nine point three feet [39.3'].

Variance # 2: [structure wall length]
A variance from the requirements of Chapter 30, Zoning, Section 12.C(1)(h) of the Code of the Town of Lancaster for the purpose of construction of 150 senior attached apartments on premises located at 375 & 391 Harris Hill Road, Lancaster, New York with the longest structure wall length of four hundred twenty-six feet [426']

The question of adoption of the forgoing resolution was put to a roll call vote which resulted as follows:

MR. BRUSO	WAS ABSENT
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution was thereupon ADOPTED and the variance relief sought GRANTED.

November 13, 2014

PETITION OF: JERRY LYNN BLANCHARD

THE 3rd CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Jerry Lynn Blanchard, 1160 Ransom Road, Lancaster, New York 14086 for two [2] variances for the purpose of constructing a pole barn on premises owned by the petitioner at 1160 Ransom Road, Lancaster New York, to wit:

- A. A variance from the requirements of Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster. The area of the proposed accessory structure is 3,888 square feet.

Chapter 50, Zoning, Section 9D.(4) of the Code of the Town of Lancaster limits the area of an accessory structure to 750 square feet. The petitioner, therefore, requests a 3138 square foot accessory use area variance.

- B. A variance from the requirements of Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster. The height of the proposed accessory structure is twenty-three [23] feet.

Chapter 50, Zoning, Section 9D.(2) of the Code of the Town of Lancaster limits the height of accessory structures to sixteen [16] feet. The petitioner, therefore, requests a seven [7] foot height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

Copy of a letter notifying the Erie County Department of Environment and Planning of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Jerry Lynn Blanchard, Petitioner	Proponent
Roseanne Maziarz	Proponent

IN THE MATTER OF THE PETITION OF JERRY LYNN BLANCHARD

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. PIGNATARO, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Jerry Lynn Blanchard and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Agricultural Residential District, (A-R) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Erie County Department of Environment and Planning has received a full copy of the proposed zoning action and has stated that the proposed action has been reviewed and determined to be of local concern therefore, no recommendation was made.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

**NOW, THEREFORE, BE IT
RESOLVED** that based upon these findings, the relief sought be and is
hereby **GRANTED**.

The question of the adoption of the foregoing resolution was duly put to a vote on roll
call which resulted as follows:

MR BRUSO	WAS ABSENT
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 13, 2014

PETITION OF: SCOTT GUENTHER

THE 4th CASE CONSIDERED BY THE ZONING Board of Appeals was that of the petition of Scott Guenther, 2 Nottingham Lane, Lancaster, New York 14086 for one [1] variance for the purpose of erecting a six [6] foot high fence in a required open space area on premises owned by the petitioner at 2 Nottingham Lane, Lancaster, New York, to wit:

A variance from the requirements of Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster. The premises upon which this variance is sought is a corner lot fronting on Nottingham Lane with an exterior side yard [considered a front yard equivalent] fronting on Thomas Drive. The petitioner proposes to erect a six [6] foot high fence within the required open space area of the exterior side yard fronting on Thomas Drive.

Chapter 50, Zoning, Section 35C. of the Code of the Town of Lancaster limits the height of a fence or wall extending into a front yard or an exterior side yard [considered a front yard equivalent] to three [3] feet in height. The petitioner, therefore, requests a three [3] foot fence height variance.

The Clerk presented and entered into evidence the following items:

Duly executed petition of the applicant with exhibits and schedules attached thereto.

Copy of a letter notifying the petitioner of the time and place of this public hearing.

Copy of a letter notifying owners of property within 100 feet of requested variance of the time and place of this public hearing.

PERSONS ADDRESSING THE BOARD

Scott Guenther, Petitioner

Proponent

THE FOLLOWING RESOLUTION WAS OFFERED
BY MR. THILL, WHO MOVED ITS
ADOPTION, SECONDED BY MR. PERRY
TO WIT:

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has reviewed the application of Scott Guenther and has heard and taken testimony and evidence at a public hearing held before it at 21 Central Avenue, Lancaster, New York, on the 13th day of November 2014, and having heard all parties interested in said application pursuant to legal notice duly published and posted, and

WHEREAS, the applicant is the present owner(s) of the premises in question.

WHEREAS, the property for which the applicant is petitioning is within a Residential District 1, (R-1) as shown on the Zoning Map of the Town of Lancaster.

WHEREAS, the Zoning Board of Appeals of the Town of Lancaster has made the following findings:

That no undesirable change will be produced in the character of the neighborhood by the granting of the area variance relief sought.

That no detriment to nearby properties will be created by the granting of the area variance relief sought.

That the benefit sought by the applicant cannot be achieved by some other method, feasible for the applicant to pursue, other than the area variance relief sought.

That the requested area variance relief is not substantial.

That the proposed area variance relief will not have an adverse effect or impact on the physical or environmental conditions in the neighborhood or district.

That the alleged difficulty is self created but not to the extent necessary to preclude the granting of the area variance relief sought.

That this board has taken into consideration the benefit to the applicant(s) if the variance relief sought is granted as weighed against the detriment to the health, safety and welfare of the neighborhood or community by such grant.

That within the intent and purposes of this ordinance the variance relief sought, if granted, is the minimum variance necessary to afford relief.

That such fence will not unduly shut out light or air to adjoining properties.

That such fence will not create a fire hazard by reason of its construction or location.

NOW, THEREFORE, BE IT

RESOLVED that based upon these findings, the relief sought be and is hereby **GRANTED** -subject to the following conditions which in the opinion of this board are appropriate conditions to minimize adverse effects on the character of the surrounding area and to safeguard the public health, safety, convenience and general welfare:

- That the fence will abut the existing fence of the neighbor on the north with the first eight foot (8') section of fence increasing in height from four feet (4') to six feet (6').
- That the southeast corner of the fence be changed from a 90° angle to a 45° angle with decorative plantings on the street side.

The question of the adoption of the foregoing resolution was duly put to a vote on roll call which resulted as follows:

MR BRUSO	WAS ABSENT
MS. MONACELLI	VOTED YES
MR. PERRY	VOTED YES
MR. PIGNATARO	VOTED YES
MR. SCHWAN	VOTED YES
MR. THILL	VOTED YES
MR. QUINN	VOTED YES

The resolution granting the variance was thereupon **ADOPTED**.

November 13, 2014

ON MOTION DULY MADE, SECONDED AND CARRIED, the meeting was adjourned at 8:31 P.M.

Signed _____
Johanna M. Coleman, Town Clerk and
Clerk, Zoning Board of Appeals
Dated: November 13, 2014